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In re Application of:	:	
MONTGOMERY, Robert, Eric	:	DECISION
U.S. Application No.: 10/568,054	:	
PCT No.: PCT/US2004/024070	:	
International Filing Date: 28 July 2004	:	
Priority Date: 28 July 2003	:	
Attorney's Docket No.: 7800B.8005	:	
For: COMPOSITIONS, METHODS,	:	
DEVICES AND KITS FOR	:	
MAINTAINING OR ENHANCING	:	
TOOTH WHITENING	:	

This decision is issued in response to the petition for revival under 37 CFR 1.137(b) and the petition to correct the name of the inventor under 37 CFR 1.182 filed 13 March 2008. Applicant has submitted the required petition fee for the petition under 37 CFR 1.137(b); Deposit Account No. 50-3717 will be charged the \$400 petition fee required for the petition under 37 CFR 1.182.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 19 January 2007. That decision dismissed the petition under 37 CFR 1.47(b) filed herein seeking acceptance of the application without the signature of the sole inventor of record, Eric R. MONTGOMERY.

On 12 February 2007, petitioner filed a response to 19 January 2007 decision which included a declaration executed by the previously non-signing inventor. The declaration identified the inventor as Robert Eric MONTGOMERY.

On 23 February 2007, this Office mailed a decision indicating that, based on the submission of the executed declaration, the petition under 37 CFR 1.47(b) was now moot. The decision noted, however, that the filed declaration was not acceptable because the name of the inventor listed in the declaration (Robert Eric MONTGOMERY) did not correspond to the name of record for this inventor (Eric R. MONTGOMERY). The decision indicated that a petition under 37 CFR 1.182 to correct the name of the inventor was required before the filed declaration could be accepted. The decision provided applicant with an extendable two-month response period to file the required petition.

On 11 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned based on applicant's failure to respond to the 23 February 2007 decision.

On 13 March 2008, applicant filed the petition for revival under 37 CFR 1.137(b) and the petition to correct the inventor's name under 37 CFR 1.182 considered herein.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). It is noted that item (4) does not apply to the present application.

With respect to item (1), the "required reply" in this application is a proper response to the decision mailed 23 February 2007, that is, a grantable petition under 37 CFR 1.182 to correct the inventor's name of record to correspond to the name listed on the declaration 12 February 2007. The present submission includes the required petition under 37 CFR 1.182. The petition confirms that the inventor's correct name is Robert Eric MONTGOMERY (as set forth on the declaration), and it indicates that the inventor's name was "accidentally transposed" during the filing of the international application as the result of an unintentional error. The petition also included the required petition fee. These materials satisfy the requirements of a grantable petition under 37 CFR 1.182 to correct the inventor's name. Accordingly, applicant has now submitted the "required reply;" item (1) of a grantable petition for revival is satisfied.

With respect to item (2), applicants have submitted the required petition fee for the petition for revival. Item (2) is therefore satisfied.

With respect to item (3), the petition includes the required statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Item (3) is therefore satisfied.

Based on the above, applicant has satisfied all the requirements for a grantable petition for revival under 37 CFR 1.137(b).

CONCLUSION

The petition under 37 CFR 1.182 to correct the name of the inventor and the petition for revival under 37 CFR 1.137(b) are **GRANTED**.

The name of record for the inventor herein is corrected to Robert Eric MONTGOMERY, the name listed on the declaration filed herein on 12 February 2007. Based on this correction, the declaration filed 12 February 2007 may now be accepted under 37 CFR 1.497.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including updating USPTO records with respect to the inventor's name and the correspondence address. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 February 2007.

A handwritten signature in black ink, appearing to read 'RM Ross'.

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